

discussed below, that the pending claims are patentable over the art of recording, including the art upon with the outstanding rejections are based and the “20 Questions” prior art.

Claim Rejections – 35 USC § 103

The Office Action (at page 2) rejected claims 1, 3, 5-6, 11, 32-37, and 39 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Fujiwara in view of Davis. The Office Action (at page 5) rejected claims 12 and 38 as being unpatentable over Fujiwara in view of Davis and further in view of Tamayo (U.S. Pub. No. 2002/0083067). Applicant respectfully submits that the pending claims are patentable over this proposed combination. Even if there was a reason that would have prompted a skilled artisan to combine Fujiwara and Davis (an issue that is not conceded herein), the proposed combination would nevertheless fail to provide the subject matter described in the pending claims.

First, unlike claim 1, Fujiwara fails to disclose a “prediction computing engine performing the second prediction determination using ***both*** of the stored first state information generated as part of the first prediction determination and the second input value set derived from the additional information about the customer that became available at the application system after the sending of the first request.” Indeed, the Office Action (at page 3) concedes that Fujiwara fails to disclose the recited claim language.

Davis fails to provide that which Fujiwara is lacking. Davis describes a system that identifies statistical correlations between customer transactions in two different time periods. (Davis, at pars. [0022]-[0023] and [0033].) Davis, however, fails to teach a system that uses ***both*** stored state information and a second input value set to perform a prediction. Example descriptions of state information are provided in the specification. For example, “state information 108 may include intermediate results, probabilities, [and] identifiers” (e.g., pointers) that are generated during the first prediction determination. (Application, at page 4, line 31.) In some example implementations, the state information is a “pointer to [a] node” of a decision tree model. (Application, at page 5, line 19; page 6, lines 30-31.) In fact, dependent claim 11 recites that “the first state information includes intermediate probability information.” Davis fails to describe a system that performs a prediction based on ***both stored state information and a***

second input value set. Indeed, during the interview, the Examiner appeared to agree that Fujiwara and Davis fail to teach the recited claim language.

Second, unlike claim 1, Fujiwara fails to disclose a method for “***providing predictive information to a human user during the course of conducting an interactive session with a customer.***” The Office Action (at page 3) contends that “[t]he human user in the claimed invention can be the identical entity as the customer.” Such an interpretation of the claims, however, does not accord with the descriptions of an interactive session in the application’s specification. For example, implementations of the claimed subject matter can relate to a method where a call-center agent can “interact with a customer online.” (*See* Claims 1 and 32; Application, page 1, lines 19-21; page 3, lines 10-26; page 4, lines 16-17.) The call-center agent can use a software application and receive predictions from the software application that the customer will churn. (*Id.*) In other words, the claimed prediction determinations “of a probability that the customer will take a predefined action” are provided to a different human user while the customer and the human user are engaged in an interactive session (e.g., when the two parties interact “online”).

Contrary to the recited subject matter Fujiwara describes a system that receives demographic data for individuals and predicts response rates for an individual to an advertisement. (Fujiwara, at paragraphs [0151] and [0183].) Unlike the recited subject matter, the prediction is performed ***before*** the individual is sent the advertisement and ***before*** the individual responds to the advertisement. Indeed, once an advertisement is received by an individual, the data mining server has ***already*** processed customer data on that individual. The requests and predictions are not sent during an “interactive session” with the customer.

Davis does not provide that which Fujiwara is lacking. Indeed, Davis similarly describes a system that performs data mining to identify individuals that are likely to respond to an incentive to purchase a product based on previous transactions by the individual. Davis describes providing a transaction incentive to a customer upon the customer being identified at a kiosk, but fails to describe an interactive session with a human where the human is provided prediction determinations that the customer at the kiosk will take a predefined action. (Davis, at par. [0087].)

Independent claim 33 recites language that is substantially similar to that in claim 1 and is patentable for at least the same reasons. Dependent claims 3, 5-6, 11-12, 32, and 34-39 are patentable for at least the same reasons as their independent claims, and for the independently patentable features described therein.

Patentability of Pending Claims over the Game “20 Questions”

Applicants submit that its presently pending claims 1, 3, 5-6, 11-12, and 32-39 are patentable over the operation of the “20 Questions” game.

Unlike claim 1, the 20 Questions game fails to disclose a method for “*providing predictive information to a human user during the course of conducting an interactive session with a customer.*” Indeed, even if the 20 Questions game described an interactive session between a player and the 20 Questions game, any predictions by the 20 Questions game are provided to the player, not a separate individual.

The Office Action (at page 3) contends that “[t]he human user in the claimed invention can be the identical entity as the customer.” Such an interpretation of the claims, however, does not accord with the descriptions of an interactive session in the application’s specification. As described above, the claimed prediction determinations “of a probability that the customer will take a predefined action” are provided to a different human user while the customer and the human user are engaged in an interactive session (e.g., when the two parties interact “online”).”

Fujiwara and Davis fail to provide that which the “20 Questions” game is lacking. Namely, both references fail to provide predictive information to a human user that a customer will take a predefined action while the human user is engaged in an interactive session with a customer.

Independent claim 33 recites language that is substantially similar to that in claim 1 and is patentable over the game “20 Questions” for at least the same reasons. Dependent claims 3, 5-6, 11-12, 32, and 34-39 are patentable for at least the same reasons as their independent claims, and for the independently patentable features described therein.

Conclusion

Applicants submit that claims 1, 3, 5-6, 11-12, and 32-39 are in condition for allowance, and request that the Examiner issue a notice of allowance.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 16, 2009

/Stephen R. Schaefer, Reg. No. 37,927/
Stephen R. Schaefer
Reg. No. 37,927

Fish & Richardson P.C.
3200 RBC Plaza
60 South Sixth Street
Minneapolis, Minnesota 55402
Telephone: (612) 335-5070
Facsimile: (877) 769-7945